

BEFORE THE KANSAS WORKERS COMPENSATION APPEALS BOARD

VICTORIA JONES, a/k/a)	
VICTORIA T. JONES-SHELTON)	
Claimant)	CS-00-0030-532
V.)	AP-00-0451-973
)	
GENERAL MOTORS LLC)	
Self-Insured Respondent)	

ORDER

The claimant, pro se, requested review of Administrative Law Judge (ALJ) Julie Sample's Order dated May 13, 2020. Kristina Mulvany appeared for the self-insured respondent.

The record on appeal consists of the preliminary hearing transcript dated May 13, 2020, and exhibits thereto, the case record and the respondent's brief.

ISSUES

The claimant had a work-related injury by accident on April 10, 2017. On May 13, 2020, the ALJ granted the respondent's request to terminate medical treatment after finding the claimant failed to prove her need for treatment was related to the work accident. The claimant filed a petition for review on July 10, 2020. The respondent argues the Board does not have authority to review the ALJ's Order because the claimant's petition for review was untimely. Alternatively, if the Board finds they do have jurisdiction, the respondent maintains the Order should be affirmed.

FINDINGS AND ANALYSIS

Many of the facts of this case are not pertinent because this appeal must be dismissed on procedural grounds.

K.S.A. 44-551(l)(1) states, in part:

All final orders, awards, modifications of awards, or preliminary awards under K.S.A. 44-534a, and amendments thereto, made by an administrative law judge shall be subject to review by the workers compensation appeals board upon written request of any interested party within 10 days. Intermediate Saturdays, Sundays and legal holidays shall be excluded in the time computation.

K.A.R. 51-18-2 states the effective date of the administrative law judge's awards, decisions, rulings, or modifications, for review purposes, shall be the day following the date noted thereon by the administrative law judge.

The Board's review of the Order is predicated on the claimant having perfected an appeal within 10 days after the ALJ's ruling.

The Order was dated May 13, 2020. The effective date of the Order was May 14. The first day of the 10-day appeal time was May 15. The last day of the appeal time was May 29. The claimant uploaded her petition for review into OSCAR (Online System for Claims Administration Research/Regulation) on July 10. Under K.S.A. 44-551(l)(1), the Board may not review the Order. The claimant's appeal is out of time and dismissed for lack of jurisdiction.

AWARD

WHEREFORE, the Board dismisses the claimant's petition for review for lack of jurisdiction.

IT IS SO ORDERED.

Dated this _____ day of August, 2020.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

Copies via OSCAR and email to:

Victoria Jones
Kristina Mulvany
Hon. Julie Sample